

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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FRANK HARRIS, parent of  
JORDAN HARRIS, a minor,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

\* \* \* \* \*

Ronald C. Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for  
Petitioner;

Voris E. Johnson, United States Dep't of Justice, Washington, DC, for Respondent.

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\* No. 07-60V  
\* Special Master Christian J. Moran  
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\* Filed: June 2, 2014  
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\* Attorneys' fees and costs;  
\* stipulation of fact; award in  
\* the amount to which respondent  
\* does not object

### UNPUBLISHED DECISION ON FEES AND COSTS<sup>1</sup>

On April 23, 2014, petitioner filed a Motion for Attorney Fees and Costs. Respondent filed a Stipulation of Fact Concerning Attorneys' Fees and Costs ("Stipulation"). The Court awards the amount to which respondent has not objected.

On January 24, 2007, petitioner, Frank Harris, filed a petition for compensation on behalf of his minor son, Jordan Harris, alleging that Jordan received a diphtheria-tetanus-acellular pertussis ("DTaP") vaccination on May 7, 2004, and subsequently suffered the onset of a seizure disorder, which petitioner contended was caused by the vaccination.

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<sup>1</sup> The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

A decision denying compensation was issued on May 27, 2011. 2011 WL 2446321. The Court of Federal Claims reversed this decision and remanded with instructions to determine an award of damages for petitioner. 102 Fed. Cl. 282 (2011). On January 18, 2013, a decision awarding damages was issued based on the parties' proffer. 2013 WL 599976. However, on January 28, 2014, the Federal Circuit reversed the ruling by the Court of Federal Claims, finding that Mr. Harris was not entitled to compensation under the Vaccine Act. Snyder v. Sec'y of Health and Human Servs., 2014 WL 292399.

Even though compensation was denied, a petitioner who brings a petition in good faith and who has a reasonable basis for the petition may be awarded attorneys' fees and costs. See 42 U.S.C. § 300aa-15(e)(1). The Court's 2011 Opinion directing compensation be awarded to petitioner justifies a finding of reasonable basis. Respondent does not contend that petitioner failed to satisfy these criteria. Thus, petitioner is eligible for an award of attorneys' fees and costs.

In his Motion for Attorney Fees and Costs, Mr. Harris requested a total of \$241,668.55 in attorneys' fees and costs, including \$186,856.00 in attorneys' fees and \$54,562.55 in attorneys' costs. The expenses may be divided into the following phases:

<b>Summary of Requested Attorneys' Fees and Costs by Phase</b>		
Phase	Attorneys' Fees	Attorneys' Cost
Special Master/Entitlement	\$124,552.40	\$36,512.07
Court of Federal Claims/Motion for Review	\$22,654.40	\$34.50
Special Master/Damages	\$15,129.10	\$14,963.93
Federal Circuit/Appeal	\$22,640.20	\$2,222.37
Special Master/Attorneys' Fees and Costs	\$1,909.90	\$829.68
<b>Total Requested Fees and Costs</b>	<b>\$186,856.00</b>	<b>\$54,562.55</b>

After informal discussions, Mr. Harris amended his request and respondent filed the above-referenced Stipulation, requesting a final award of attorneys' fees and costs in the amount of **\$225,071.60**. Additionally, Mr. Harris filed a statement of costs in compliance with General Order No. 9, stating that he incurred **\$250.00** in costs while pursuing this claim. Respondent states that she does not object to a total award in the amount of **\$225,321.60** for attorneys' fees and costs and petitioner's costs.

A status conference to discuss petitioner's Motion for Attorney Fees and Costs was held on May 8, 2014. After reviewing the request and Stipulation, the Court awards the following:

1. **A lump sum payment of \$225,071.60 in the form of a check payable to petitioner's attorney, Ronald C. Homer, of the law firm Conway, Homer & Chin-Caplan, P.C., and petitioner, Frank Harris, for attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e);**
2. **A lump sum payment of \$250.00 in the form of a check payable to petitioner, Frank Harris.**

The Court thanks the parties for their cooperative efforts in resolving this matter. The Clerk shall enter judgment accordingly.<sup>2</sup>

**IT IS SO ORDERED.**

S/Christian J. Moran  
Christian J. Moran  
Special Master

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<sup>2</sup> Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.